

ATTORNEY DOCKET NO. 14114.0341U1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Application of
Ades *et al.*Serial No. 09/613,092
Confirmation No. 9419

Filed: July 10, 2000

For: MULTIPLE ANTIGENIC PEPTIDES
IMMUNOGENIC AGAINST
STREPTOCOCCUS PNEUMONIA

Group Art Unit: 1645

Examiner: Devi, S.

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GROUP 1600

ELECTION UNDER RESTRICTION REQUIREMENT

OFFICIAL

Commissioner of Patents
Washington, D.C. 20231
ATTN: Examiner S. Devi
Group Art Unit 1645
Facsimile No. (703) 308-4315NEEDLE & ROSENBERG, P.C
The Candler Building
127 Peachtree Street, N.E.
Atlanta, Georgia 30303-1811

July 23, 2002

Sir:

This is in response to the Office Action dated July 3, 2002, wherein restriction of the claims of the above-referenced application is required. The Office Action requires restriction to one of sixteen groups of claims.

Applicants provisionally elect Group 9 (claim 11, drawn to a multiple antigenic peptide comprising SEQ ID NO: 5, 6, and 7, classified in class 424, subclass 190.1), with traverse, and request that claim 1 be joined with Group 9.

Applicants also request that Group 15 (claim 19, drawn to a method of conferring protective immunity by administering a composition comprising SEQ ID NO: 5, 6, and 7, classified in class 424, subclass 244.1) be rejoined with Group 9.

ATTORNEY DOCKET NO. 14114.0341U1
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Applicants further request that the restriction requirement be reconsidered, because the Examiner has not shown that a serious burden would be required to examine all the claims.

M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) the search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P. § 803.

In particular, the Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine the groups together. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be searched and examined together. For these reasons, reconsideration and withdrawal of the restriction requirement is requested.

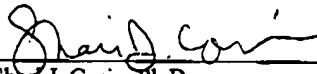
For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO) and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and

ATTORNEY DOCKET NO. 14114.0341U1
SERIAL NO. 09/613,092

modification or withdrawal of the restriction requirement is requested.

It is believed that this paper is being timely filed and that no fee is required for the filing thereof. However, the Commissioner is hereby authorized to charge any fee that may be required or to credit any overpayment to Deposit Account No. 14-0629.


Respectfully submitted,

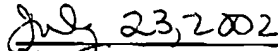

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RE:**RESTRICTION ELECTION FACSIMILE TRANSMISSION****In re Application of****Ades et al.****Application No. 09/613,092****Filed: July 10, 2000****Attorney Docket No. 14114.0341U1****Examiner: S. Devi****Group Art Unit: 1645****NOTES/COMMENTS:**

The following documents are transmitted herewith in connection with the filing of an Election Under Restriction Requirement in the above-referenced matter.

- 1) Election Under Restriction Requirement - 3 pgs.
- 2) Certificate of Facsimile Transmission dated July 23, 2002

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